

REMARKS

This Amendment is submitted in reply to the final Office Action mailed on November 19, 2008. There are no fees due herewith this Amendment. The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-598 on the account statement.

Claims 1-13 are pending in the application. Claims 1-9 and 12-13 were previously withdrawn. Claims 10-11 are rejected under 35 U.S.C. §112, first and second paragraphs and under 35 U.S.C. §102(b). In response, Applicants have amended Claims 10 and 11. These amendments do not add new matter and are supported in the specification (Preliminary Amendment of March 8, 2005) at, for example, page 5, lines 17 to 19 and page 6, lines 10 to 17. In view of these amendments and at least for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 10-11 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Patent Office asserts that the specification does not provide a reasonably representative disclosure of useful "natural sources thereof" generally, a potentially huge genus inclusive of many different compounds having widely divergent structures and functions. The Patent Office also asserts that the specification does not disclose any species and, therefore, is not viewed as being reasonably representative of the genus in its claimed scope. See, Office Action, page 4, lines 6-12. In response, Applicants have amended both Claims 10-11 to delete references to "natural sources thereof." These amendments are supported in the specification at, for example, page 6, lines 15-17. For at least the above-mentioned reasons, Applicants respectfully submit that the present claims comply with the requirements under 35 U.S.C. §112, first paragraph.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. §112, first paragraph be reconsidered and withdrawn.

In the Office Action, Claims 10-11 are rejected under 35 U.S.C. §112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Patent Office asserts that it is not clear what constitutes a "natural source" of the claimed compounds and that it is not clear how one can determine if a

given compound has come from a laboratory or from "nature," without some additional distinguishing limitation. See, Office Action, page 4, lines 15-22. In response, Applicants have amended both Claims 10-11 to delete references to "natural sources thereof." These amendments are supported in the specification at, for example, page 6, lines 15-17. For at least the above-mentioned reasons, Applicants respectfully submit that the present claims comply with the requirements under 35 U.S.C. §112, second paragraph.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. §112, second paragraph be reconsidered and withdrawn.

In the Office Action, Claims 11 and 12 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Publ. No. 2002/0098253 to Riley et al. ("*Riley*"). However, in view of the fact that Claim 12 had been previously withdrawn and Claims 10-11 are the only pending claims that have not been withdrawn, Applicants assume that the Patent Office meant to reject Claims 10-11 under 35 U.S.C. §102(b) instead of Claims 11-12. Accordingly, Applicants will address the rejection as if Claims 10-11 have been rejected. In response to the rejection, Applicants respectfully submit that *Riley* is deficient with respect to the presently amended claims.

Currently amended independent Claims 10-11 recite, in part, methods comprising administering a composition comprising about 1 mg to about 1 g per kg of body weight per day of at least one of a molecule that stimulates energy metabolism of the cell selected from the group consisting of L-carnitine, creatine, fatty acids (monounsaturated and polyunsaturated), cardiolipin, nicotinamide, carbohydrate and combinations thereof and an antioxidant. The amendments do not add new matter. The amendments are supported in the specification at, for example, page 6, line 18-page 7, line 8. Applicants have surprisingly found that an orally administrable composition may be administered in order to improve skin quality. Such compositions are capable of stimulating extracellular matrix production, particularly synthesis of components such as glycosaminoglycans that bind interstitial fluid and thus improve skin turgor. See, specification, page 5, lines 7-9; page 6, lines 11-14. In contrast, however, Applicants respectfully submit that *Riley* fails to disclose each and every element of the present claims.

Riley fails to disclose or suggest methods comprising administering a composition comprising about 1 mg to about 1 g per kg of body weight per day of at least one of a molecule that stimulates energy metabolism of the cell selected from the group consisting of L-carnitine,

creatine, fatty acids (monounsaturated and polyunsaturated), cardiolipin, nicotinamide, carbohydrate and combinations thereof and an antioxidant as required, in part, by amended Claims 10 and 11. Instead, *Riley* discloses the use of about 8 mg of L-Carnitine in a table, as noted by the Patent Office. See, Office Action, page 5, lines 10-16. At no place in the disclosure does *Riley* even suggest that an amount of a molecule that stimulates energy metabolism of the cell based on the weight of the subject be administered to the subject. Further, in the example containing L-Carnitine (Example 2), *Riley* fails to even disclose how many tablets are administered per day in order to determine how much L-Carnitine is administered per day. Therefore, since *Riley* fails to disclose or suggest the presently claimed compounds, *Riley* fails to anticipate the present claims.

Further, anticipation is a factual determination that “requires the presence in a single prior art disclosure of each and every element of a claimed invention.” *Lewmar Marine, Inc. v. Bariant, Inc.*, 827 F.2d 744, 747 (Fed. Cir. 1987) (emphasis added). Federal Circuit decisions have repeatedly emphasized the notion that anticipation cannot be found where less than all elements of a claimed invention are set forth in a reference. See, e.g., *Transclean Corp. v. Bridgewood Services, Inc.*, 290 F.3d 1364, 1370 (Fed. Cir. 2002). As such, a reference must clearly disclose each and every limitation of the claimed invention before anticipation may be found. Because *Riley* fails to disclose each and every element of the present claims, *Riley* fails to anticipate the present claims.

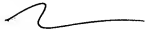
For at least these reasons, Applicants respectfully submit that *Riley* fails to anticipate the presently claimed subject matter.

Accordingly, Applicants respectfully submit that the anticipation rejections with respect to Claims 10-11 be reconsidered and withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same. In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY 
Robert M. Barrett
Reg. No. 30,142
Customer No. 29157
Phone No. 312-807-4204

Dated: February 9, 2009